

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of)
)
Policies and Rules Pertaining to)
Local Exchange Carrier) CCB/CPD 97-19
"Freezes" on Consumer Choices of) RM-9085 ✓
Primary Local Exchange or)
Interexchange Carriers)

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

REPLY COMMENTS

BellSouth Telecommunications, Inc. ("BellSouth") hereby submits its Reply Comments in the above-captioned proceeding. As BellSouth discusses herein, the fundamental assumption underlying MCI's Petition and the comments filed in support thereof -- that incumbent local exchange carriers ("ILECs") are using "freeze" programs to protect their local and intraLATA positions -- has no basis in fact, at least as far as BellSouth is concerned. In addition, BellSouth urges the Commission to reject MCI's Petition. The Commission should, however, initiate a rulemaking proceeding under Section 258 of the Telecommunications Act¹ to consider overall slamming issues as well as the impact of the new rules established in the Commission's Local Competition Order² on processes for selecting and changing toll and local exchange service providers.

¹ Section 258 was enacted as a part of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified at 47 U.S.C. Sec. 151 et seq.).

² Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, First Report and Order, 11 FCC Rcd 15499 (1996), Order on Reconsideration, 11 FCC Rcd 13042 (1996), *petition for review pending and partial stay granted, sub nom., Iowa Utils. Bd. v. FCC*, 109 F.3d 418 (8th Cir.1996).

Overall, the comments show substantial support for “PIC freeze,” a.k.a. “slamming protection,” programs. As many commenters point out,³ these programs do not take away a customer’s ability to choose a primary carrier, but rather protect the customer’s choice from fraudulent changes by unauthorized entities. Moreover, as some observe, the Commission has encouraged the use of “freeze” programs.⁴ In addition, the rules proposed by MCI, which provide for third party verification of a change to a “frozen” account, would eviscerate the utility of a “slamming protection” program in the first place.⁵ Slamming has increasingly occurred despite the fact that the Commission’s existing interexchange interLATA rules provide for third party verification of customer’s choices.

The underlying assumption made by MCI and commenters who support MCI is that ILECs are using their freeze programs not to protect customers but to protect their own “monopolies” on local exchange and intraLATA services. Nothing could be further from the truth. BellSouth does not place a freeze on a customer’s choice of local exchange service provider. BellSouth’s freeze program operates only as to the customer’s choice of intraLATA⁶ and interLATA service providers and, indeed, the customer can freeze its intraLATA or

³ ALLTEL, Ameritech, Bell Atlantic and NYNEX, Citizens, GTE, SBC, SNET and USTA.

⁴ ALLTEL at 3; Ameritech at 2-3.

⁵ Citizens at 9-10; Ameritech at 19-21.

⁶ IntraLATA subscription by local exchange customers to a preferred carrier is available at the present time in only three states in BellSouth’s region, and, therefore, the intraLATA “freeze” program is available only in those states.

interLATA choice, or both, and may choose the same or different carriers for the two.⁷ This “freeze” program is available whether or not a customer chooses BellSouth as its intraLATA provider. In addition, BellSouth is not the only carrier with information regarding which customers have a “freeze” on their accounts, as some commenters apparently believe.⁸ BellSouth provides account “freeze” information to requesting carriers as a part of BellSouth’s “listed name and address” and “change activity register” services. Moreover, BellSouth facilitates an end user’s desire to lift the “freeze” and change providers by offering 3-way conference calling with the end user customer and the new carrier, and, in addition, permits the end user and its chosen carrier to remove a “freeze” after normal business hours through a joint voice mail notice to BellSouth using scripted questions to the end user designed to assure the validity of the call.

Given the high frequency of slamming, there may be a need for the Commission to review its existing rules applicable to the establishment and change of primary interstate interexchange carriers. There is definitely a need for the Commission to establish rules governing such matters for intrastate services under the Commission’s new authority under Section 258. Any review of “freeze” programs should be accomplished as a part of that comprehensive proceeding, rather than as the separate rulemaking proceeding which MCI requests, or the separate declaratory ruling proceeding which CompTel apparently suggests.⁹ The Commission must consider such

⁷ Of course, if slamming of local exchange service becomes a problem in the future, then a “freeze” program for local exchange service could become necessary in order to protect the interests of end users.

⁸ See, e.g., Cox at 4-5.

⁹ CompTel at 6. Indeed, the issues presented are more complex than could be accomplished by a proceeding aimed at the issuance of an “immediate declaratory ruling” such as CompTel suggests.

matters in the context of the new rules established in its Local Competition Order. In particular, any new rules should reflect the impact of the requirement that ILECs make available as an unbundled network element their operations support systems ("OSS").

Although BellSouth disagrees that an ILECs' OSS may properly be considered as a UNE under the 1996 modifications to the Telecommunications Act, and, in fact, has included this issue as a part of its appeal of the Commission's Local Competition Order, BellSouth has nevertheless placed substantial resources into developing the necessary processes and interfaces to enable other carriers to have access to its OSS as required by the Commission's existing OSS rules (which have not been stayed), including the provision of such access on a nondiscriminatory basis. Utilizing such processes and interfaces, a competitive local exchange carrier ("CLEC") can order facilities for use as the new local exchange service provider of a BellSouth customer, or can, alternatively, order local exchange service for resale, as the new local exchange service provider, to a BellSouth customer. Indeed, such carrier can become the new local exchange service provider of the end user customer by submitting orders through the OSS systems even if there is a "freeze" on the account. This is because a "freeze" presently operates only to prohibit changes to the customer's primary carrier for intraLATA service or interLATA service, or both, at the option of the customer, but not to the customer's local exchange service provider.¹⁰ As the new local exchange service provider of the former BellSouth customer, the CLEC can administer the customer's request for a "freeze" or "unfreeze" of its chosen intraLATA or interLATA primary carrier, or both, and BellSouth has no control or authority over these changes. This cycle can repeat itself when a third carrier gains the customer's authorization to become its new local

¹⁰ See, n. 7, supra.

exchange service provider and submits orders, as may be necessary, through BellSouth's OSS. BellSouth's OSS processes retain the traditional service-by-service freeze capability discussed above, and, in addition, provide carriers accessing the OSS information regarding whether an individual BellSouth local exchange customer account has a freeze on it and, if so, whether for intraLATA, interLATA, or both.

In its Section 258 proceeding, the Commission should be careful to assure that the rules it adopts apply on a competitively neutral basis to all local exchange service providers, both ILECs and CLECs. Especially given the nondiscriminatory nature of OSS access, there simply is no need for a separate third party to administer a "freeze" program as Sprint advocates.¹¹ Nor is there justification for more restrictive or burdensome requirements for ILECs than for CLECs, such as the moratorium on ILEC "freeze" programs that AT&T advocates.¹² Rather, the rules adopted should be designed to protect the local exchange service customer in making its own choices for primary carriers regardless of whether the local exchange service provider is an ILEC or a CLEC.

¹¹ Sprint at 3, 13. Indeed, such a program would be costly, and questions would arise regarding compensation for the administrator, by whom and on what basis.

¹² AT&T at 6.

In sum, BellSouth urges the Commission to deny MCI's Petition and to proceed with the necessary steps to initiate a more comprehensive rulemaking proceeding under Section 258 in a manner which recognizes the existence of new local exchange service competition and the Commission's new rules promulgated pursuant to the Local Competition Order.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

A handwritten signature in cursive script, reading "Rebecca M. Lough", is written over a horizontal line.

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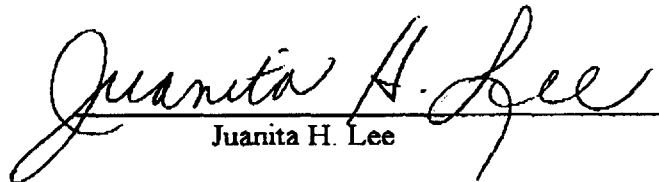
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DATE: June 19, 1997

CERTIFICATE OF SERVICE

I hereby certify that I have this 19th day of June, 1997 served the following parties to this action with a copy of the foregoing **REPLY COMMENTS** by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties listed on the attached service list.



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